

*Draft Order laid before the House of Commons under section 124(8) of the Finance Act 2008, for approval by resolution of the House of Commons.*

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DRAFT STATUTORY INSTRUMENTS

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**2014 No.**

**AGGREGATES LEVY  
CLIMATE CHANGE LEVY  
CUSTOMS AND EXCISE  
FINANCIAL SERVICES  
INSURANCE PREMIUM TAX  
LANDFILL TAX  
VALUE ADDED TAX**

The Revenue and Customs (Amendment of Appeal Provisions for Out of Time Reviews) Order 2014

*Made* - - - -

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*Coming into force in accordance with article 1(2)*

The Treasury make the following Order in exercise of the powers conferred by section 124(1), (2), (6) and (7)(b) of the Finance Act 2008<sup>(1)</sup>.

In accordance with section 124(8) of that Act, a draft of this instrument was laid before the House of Commons and approved by resolution of that House.

**Citation, commencement and effect**

1.—(1) This Order may be cited as the Revenue and Customs (Amendment of Appeal Provisions for Out of Time Reviews) Order 2014.

(2) This Order comes into force on the first day of the month following the month in which this Order is made.

(3) This Order (except article 8(2)) has effect in relation to requests for a review out of time notified to Her Majesty's Revenue and Customs on or after the date it comes into force.

### **Amendment to FA 1994: customs and excise duties**

2. In section 16 of FA 1994(2) (appeals to a tribunal), for subsection (1D) substitute—
- “(1D) In a case where HMRC are requested to undertake a review in accordance with section 15E(3)—
- (a) an appeal may not be made to an appeal tribunal—
    - (i) unless HMRC have notified P, or the other person, as to whether or not a review will be undertaken, and
    - (ii) if HMRC have notified P, or the other person, that a review will be undertaken, until the conclusion date;
  - (b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
  - (c) if HMRC have notified P, or the other person, that a review will not be undertaken, an appeal may be made only if the appeal tribunal gives permission to do so.”.

### **Amendment to FA 1994: insurance premium tax**

3. In section 59G of FA 1994(4) (bringing of appeals), for subsection (4) substitute—
- “(4) In a case where HMRC are requested to undertake a review by virtue of section 59E(5)—
- (a) an appeal may not be made to an appeal tribunal—
    - (i) unless HMRC have notified P, or the other person, as to whether or not a review will be undertaken, and
    - (ii) if HMRC have notified P, or the other person, that a review will be undertaken, until the conclusion date;
  - (b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
  - (c) if HMRC have notified P, or the other person, that a review will not be undertaken, an appeal may be made only if the appeal tribunal gives permission to do so.”.

### **Amendment to VATA 1994: value added tax**

4. In section 83G of VATA 1994(6) (bringing of appeals), for subsection (4) substitute—
- “(4) In a case where HMRC are requested to undertake a review in accordance with section 83E(7)—
- (a) an appeal may not be made—
    - (i) unless HMRC have notified P, or the other person, as to whether or not a review will be undertaken, and
    - (ii) if HMRC have notified P, or the other person, that a review will be undertaken, until the conclusion date;
  - (b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;

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(2) 1994 c. 9. Sections 16(1) and (1A)-(1G) were substituted and inserted by S.I. 2009/56.  
(3) Section 15E was inserted by S.I. 2009/56.  
(4) Section 59G was inserted by S.I. 2009/56.  
(5) Section 59E was inserted by S.I. 2009/56.  
(6) 1994 c. 23. Section 83G was inserted by S.I. 2009/56.  
(7) Section 83E was inserted by S.I. 2009/56.

- (c) if HMRC have notified P, or the other person, that a review will not be undertaken, an appeal may be made only if the tribunal gives permission to do so.”.

**Amendment to FA 1996: landfill tax**

5. In section 54G of FA 1996(8) (bringing of appeals), for subsection (4) substitute—

“(4) In a case where HMRC are requested to undertake a review by virtue of section 54E(9)—

- (a) an appeal may not be made to an appeal tribunal—
  - (i) unless HMRC have notified P, or the other person, that a review will be undertaken, and
  - (ii) if HMRC have notified P, or the other person, that a review will be undertaken, until the conclusion date;
- (b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
- (c) if HMRC have notified P, or the other person, that a review will not be undertaken, an appeal may be made only if the appeal tribunal gives permission to do so.”.

**Amendment to FA 2000: climate change levy**

6. In paragraph 121G of Schedule 6 to FA 2000(10) (bringing of appeals), for sub-paragraph (4) substitute—

“(4) In a case where HMRC are requested to undertake a review by virtue of paragraph 121E(11)—

- (a) an appeal may not be made to an appeal tribunal—
  - (i) unless HMRC have notified P, or the other person, as to whether or not a review will be undertaken, and
  - (ii) if HMRC have notified P, or the other person, that a review will be undertaken, until the conclusion date;
- (b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
- (c) if HMRC have notified P, or the other person, that a review will not be undertaken, an appeal may be made only if the appeal tribunal gives permission to do so.”.

**Amendment to FA 2001: aggregates levy**

7. In section 40G of FA 2001(12) (bringing of appeals), for subsection (4) substitute—

“(4) In a case where HMRC are requested to undertake a review by virtue of section 40E(13)—

- (a) an appeal may not be made to an appeal tribunal—
  - (i) unless HMRC have notified P, or the other person, as to whether or not a review will be undertaken, and

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(8) 1996 c. 8. Section 54G was inserted by S.I. 2009/56.

(9) Section 54E was inserted by S.I. 2009/56.

(10) 2000 c. 17. Paragraph 121G was inserted by S.I. 2009/56.

(11) Paragraph 121E was inserted by S.I. 2009/56.

(12) 2001 c. 9. Section 40G was inserted by S.I. 2009/56.

(13) Section 40E was inserted by S.I. 2009/56.

- (ii) if HMRC have notified P, or the other person, that a review will be undertaken, until the conclusion date;
- (b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
- (c) if HMRC have notified P, or the other person, that a review will not be undertaken, an appeal may be made only if the appeal tribunal gives permission to do so.”.

**Amendment to FA 2003: taxes and duties on importation and exportation: penalties**

8.—(1) Section 33F of FA 2003(14) (bringing of appeals) is amended as follows.

(2) In subsection (3) for “section 33C” substitute “section 33B”.

(3) For subsection (4) substitute—

“(4) In a case where HMRC are requested to undertake a review in accordance with section 33D(15)—

- (a) an appeal may not be made to an appeal tribunal—
  - (i) unless HMRC have notified P as to whether or not a review will be undertaken, and
  - (ii) if HMRC have notified P that a review will be undertaken, until the conclusion date;
- (b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
- (c) if HMRC have notified P that a review will not be undertaken, an appeal may be made only if the appeal tribunal gives permission to do so.”.

**Amendment to the Export (Penalty) Regulations 2003: export penalties**

9. In regulation 9F of the Export (Penalty) Regulations 2003(16) (bringing of appeals), for paragraph (4) substitute—

“(4) In a case where HMRC are requested to undertake a review in accordance with regulation 9D(17)—

- (a) an appeal may not be made to an appeal tribunal—
  - (i) unless HMRC have notified P as to whether or not a review will be undertaken, and
  - (ii) if HMRC have notified P that a review will be undertaken, until the conclusion date;
- (b) any appeal where sub-paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
- (c) if HMRC have notified P that a review will not be undertaken, an appeal may be made only if the appeal tribunal gives permission to do so.”.

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(14) 2003 c. 14. Section 33F was inserted by S.I. 2009/56.

(15) Section 33D was inserted by S.I. 2009/56.

(16) S.I. 2003/3102. Regulation 9F was inserted S.I. 2009/56.

(17) Regulation 9D was inserted by S.I. 2009/56.

**Amendment to the Control of Cash (Penalties) Regulations 2007: decisions to impose penalties in relation to movements of cash**

**10.** In regulation 4F of the Control of Cash (Penalties) Regulations 2007<sup>(18)</sup> (bringing of appeals), for paragraph (4) substitute—

“(4) In a case where the Commissioners are requested to undertake a review in accordance with regulation 4D<sup>(19)</sup>—

- (a) an appeal may not be made—
  - (i) unless the Commissioners have notified P as to whether or not a review will be undertaken, and
  - (ii) if the Commissioners have notified P that a review will be undertaken, until the conclusion date;
- (b) any appeal where sub-paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
- (c) if the Commissioners have notified P that a review will not be undertaken, an appeal may be made only if the tribunal gives permission to do so.”.

**Amendment to the Money Laundering Regulations 2007: decisions associated with money laundering provisions**

**11.** In regulation 43F of the Money Laundering Regulations 2007<sup>(20)</sup> (bringing of appeals against decisions of the Commissioners), for paragraph (4) substitute—

“(4) In a case where the Commissioners are requested to undertake a review in accordance with regulation 43D<sup>(21)</sup>—

- (a) an appeal may not be made—
  - (i) unless the Commissioners have notified P as to whether or not a review will be undertaken, and
  - (ii) if the Commissioners have notified P that a review will be undertaken, until the conclusion date;
- (b) any appeal where sub-paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
- (c) if the Commissioners have notified P that a review will not be undertaken, an appeal may be made only if the tribunal gives permission to do so.”.

**Amendment to the Transfer of Funds (Information on the Payer) Regulations 2007: decisions to impose penalties on payment service providers**

**12.** In regulation 12F of the Transfer of Funds (Information on the Payer) Regulations 2007<sup>(22)</sup> (bringing of appeals against decisions of the Commissioners), for paragraph (4) substitute—

“(4) In a case where the Commissioners are requested to undertake a review in accordance with regulation 12D<sup>(23)</sup>—

- (a) an appeal may not be made—

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<sup>(18)</sup> S.I. 2007/1509. Regulation 4F was inserted by S.I. 2009/56.

<sup>(19)</sup> Regulation 4D was inserted by S.I. 2009/56.

<sup>(20)</sup> S.I. 2007/2157. Regulation 43F was inserted by S.I. 2009/56.

<sup>(21)</sup> Regulation 43D was inserted by S.I. 2009/56.

<sup>(22)</sup> S.I. 2007/3298. Regulation 12F was inserted by S.I. 2009/56.

<sup>(23)</sup> Regulation 12D was inserted by S.I. 2009/56.

- (i) unless the Commissioners have notified P as to whether or not a review will be undertaken, and
  - (ii) if the Commissioners have notified P that a review will be undertaken, until the conclusion date;
- (b) any appeal where sub-paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
- (c) if the Commissioners have notified P that a review will not be undertaken, an appeal may be made only if the tribunal gives permission to do so.”.

Date

*Name*  
*Name*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends provisions in a variety of enactments relating to the circumstances in which appeals may be brought against decisions of the Commissioners of Her Majesty's Revenue and Customs ("the Commissioners"), where a request has been made for a review out of time of a decision by HMRC.

The amendments made by this Order apply to the following regimes or decisions: customs duties, excise duties, insurance premium tax, VAT, landfill tax, climate change levy, aggregates levy, import and export penalties, decisions to impose penalties in relation to movements of cash, decisions associated with money laundering provisions, and decisions to impose penalties on payment service providers.

The amendments change the rules so that where the Commissioners decide not to undertake a review out of time, an appeal may only be brought against the relevant decision if the tribunal gives permission to do so.

Regulation 8(2) of the Order also corrects a minor error in section 33F(3) of Finance Act 2003.

The Order comes into force on the first day of the month following the month in which it is made, and has effect in relation to out of time requests for review notified to HMRC on or after that date.

A Tax Information and Impact Note has not been prepared for this instrument.